

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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McKESSON CORPORATION,

Plaintiff,

-against-

LARRY LUMERMAN AND DARBY DRUG
CO., INC.

Defendants.

ORDER

CV 05-2787 (LDW) (ARL)

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LINDSAY, Magistrate Judge:

Before the court is a letter dated August 23, 2006 on behalf of the defendants seeking a pre-motion conference prior to making a motion to compel pursuant to FRCP 37 and Local Civil Rule 37.3.¹ Defendants' letter also provides the substantive basis for the proposed motion. The plaintiff has opposed the application, on the merits, by letter dated August 28, 2006. The court has reviewed the parties' submissions and finds that a conference is not required. For the reasons that follow, the application is granted.

The defendants seek to compel responses to their Second Set of Interrogatories and Second Request for the Production of Documents, both served on July 13, 2006. Plaintiff objects to the discovery demands, claiming that they are untimely. Although discovery closed on August 3, 2006, the defendants sought the information at issue as early as April 2006. At that time, plaintiff represented that the information would be provided at the depositions of the plaintiff's

¹The undersigned does not have a pre-motion conference requirement for discovery or other non-dispositive motions made pursuant to Local Rule 37.3. See Individual Practices of Magistrate Judge Arlene R. Lindsay at Rule 2(A)(1).

personnel. Those depositions, which were taken on June 20, 21 and July 26, did not provide the defendants with that information. Accordingly, the defendants served the instant discovery demands. Given the defendants' diligence in attempting to obtain this discovery within the deadline set by the court, the application is granted. Plaintiff shall respond to the Second Set of Interrogatories and Second Request for the Production of Documents by **September 6, 2006**.

Dated: Central Islip, New York
August 29, 2006

SO ORDERED:

_____/s/_____
ARLENE ROSARIO LINDSAY
United States Magistrate Judge